

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
United States of America

Hon. Hugh B. Scott

v.

07 M 2076

TIMOTHY DEAN PETERSON

Memorandum & Order

Defendant.

The Government seeks to have the defendant detained pending trial in this case. In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing was held on March 15, 2007. For the reasons set forth below, and in accordance with 18 U.S.C. §3142(e) and (g), the defendant is hereby ordered detained pending trial in this case.

Charges Against Defendant

In summary, the defendant is charged by way of a criminal complaint alleging that he used an interstate facility to induce or entice a minor to engage in criminal sexual activity, and traveled with the intent to engage in illicit sexual contact, all in violation of Title 18, United States Code Sections 2422(b) and 2423(b).

Discussion

Pursuant to 18 U.S.C. §3142(g), the factors to be considered in the determination of a detention request are:

- (1) the nature and circumstances of the offense charged;
- (2) the weight of the evidence against the person;
- (3) the history and characteristics of the person, including—
 - (A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past

conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

Findings & Conclusions

Upon consideration of the motion made by the Government for detention, the proffer made by the Government and the Defense, and after considering all of the factors set forth in 18 U.S.C. § 3142(g), the Court finds that detention is warranted based upon the following findings:


1. The Pretrial Services Report dated March 14, 2007, submitted by Patrick Cerminara, United States Probation Officer Assistant for the Western District of New York is hereby incorporated in the record.
2. The serious nature of the instant offense alleged namely a sexual crime against a child and travel to this district to engage in such conduct.
3. The defendant has pending state charges for sexual abuse.
4. The defendant has alcohol related arrests and convictions and ongoing marijuana use.
5. The defendant has a history of mental health issues.

Based on the foregoing, the court finds by clear and convincing proof that the defendant poses a risk of danger to the community, and that no condition or combination of conditions will reasonably assure against these risks during the pendency of these proceedings.

For the reasons stated above, it is hereby ordered that the defendant be detained pending trial of the charges against him.

It is further ordered that pursuant to 18 U.S.C. § 3142(i): (1) the defendant shall be committed to the custody of the United States Attorney General, or his designated representative, for confinement pending trial in a correctional facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; (2) that the defendant be afforded reasonable opportunity for private consultation with counsel; and (3) that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the defendant is confined shall deliver the defendant to a United States Marshall for the purpose of an appearance in connection with these court proceedings.

So Ordered.


Hon. Hugh B. Scott
United States Magistrate Judge

Buffalo, New York
May 16, 2007